

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

In re: Martin James dekom Sr.

2018 NOV 13 Case No. 18-75602-736
Chapter 13
RECEIVED

Debtor(s)

NOTICE OF PRESENTMENT

PLEASE TAKE NOTICE that upon the annexed application of

Martin Dekom, a motion will be presented before the Hon.

Robert Grossman, Bankruptcy Judge on November 21, 2018 at 10:00 a.m.,

seeking the following relief:


Reconsideration of the prior order dismissing the action, grant of the prior requested hurricane

extension, ECF and email notification

Please be advised that objections must be filed with the court and mailed to the applicant in writing at least 7 days before the presentment date set forth above. The Court may enter an order without a hearing unless a timely objection is made.

If an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such a hearing will be provided by the applicant.

Dated: 7 November 2018


Signature: Martin Dekom
Print name: 9050 Sunset Dr
Address: Navarre, FL 32566

Phone: 516 850-2717
Email: martin.dekom@gmail.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re MARTIN JAMES DEKOM, SR
Debtor

Ch 13

18-75602-736

NOTICE AND MOTION TO RECONSIDER
ORDER DISMISSING

I, Martin Dekom, *pro se* petitioner, state true under penalty of perjury:

PLEASE TAKE NOTICE that, upon the below declaration and memo of Martin Dekom, dated 7 November, 2018, and all prior papers, petitioner Martin Dekom moves this Court before the Honorable Robert Grossman of the Eastern District of New York, 100 Federal Plaza, Courtroom 1040, Central Islip, NY 11722, by submission only, and to appear telephonically, on the 21st of November, 2018 for an order reconsidering and reversing the prior order dismissing this action, per FRBP 9024 and FRCP 60.

Take further notice that these papers have been served on you at thirteen days before the motion is scheduled to be heard. You must serve your answering papers at least seven days before such time. Reply or responding affidavits shall be served at least one day before such time.

History

Martin Dekom filed a bankruptcy petition on August 20, 2018. He was notified that his filing was missing documents. Dekom submitted missing documents. Dekom also applied for ECF privileges. For reasons unknown, the Clerk discontinued the email notifications to Dekom in this case, on or about September 21, 2018. He has not received any auto-notice since then.

On September 29, 2018, and within the deadline, Dekom requested additional time, specifically to amend any deficiencies in his submission. On October 4, 2018, this Court granted the extension (ECF 25), setting the due date at November 19, 2018. Prior to that date, trustee Michael Macco attempted to move to dismiss (“attempt” because papers were delivered to Dekom’s prior address). Dekom opposed and noted he had not been served. Dekom requested an additional extension of one week, due to Hurricane Michael. The Court dismissed the case (ECF 32) and a Notice of Dismissal was mailed to Dekom on November 2, 2018 (ECF 33). Dekom now moves for reconsideration.

Standard

Reconsideration and relief of an order of dismissal is appropriate when there has been a mistake, excusable neglect, or a host of reasons which fall under the ambit of common sense.

Argument

Apparently there was an error in that the person handling the motion to dismiss was unaware that this Court had already granted Dekom permission to amend his filings with a new due date of November 19, 2018. On the face of it, Dekom still has weeks left to correct any deficiency. Any argument in favor of dismissal, no matter how strong, is not ripe until after that date.

Further, the record indicates the Dekom has exercised due diligence. His desire to “get it right” in abundance of caution serves the interest of judicial economy. This is the kind of proactive behavior which benefits all- the Court should not overtly punish it with premature dismissal.

Similarly, the failure to serve motion papers makes the ensuing judgment a nullity. Without notice of his jeopardy, Dekom has been denied Due Process. The delay in ECF permission, as well as shutting down email notification, ensured that Dekom could not get any version of Due Process.

Lastly, acts of God are an indisputable cause of excusable neglect. Since moving to Florida, the Dekom family has had to contend with two hurricanes, Gordon, which broke slightly to the west, and Michael, which broke slightly to the east. Hurricane prep and dealing with the aftermath are incredibly disruptive and not optional. It would be a patent injustice to deny a diligent litigant his day in court because he didn't tough out two natural disasters.*

WHEREFORE, petitioner Martin Dekom respectfully requests the Court reconsider and reverse its order of dismissal, additionally, grant Dekom the one week extension previously prayed for to November 26, 2018, restore email notification and grant ECF privileges, and further relief in the interest of justice.

Submitted,

7 November 2018



Martin Dekom
9050 Sunset Dr.
Navarre, FL 32566
516 850-2717
Martin.dekom@gmail.com

* Seriously, people.

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Ch 13

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18-75602-736

CERTIFICATE OF SERVICE

I, Julie Dekom, state under penalty of perjury:

I am not a party to the action, and

I served NOTICE AND MOTION FOR RECONSIDERATION OF DISMISSAL (with
presentment) on, for the following:

Courtney Williams for Nationstar
Gross Polowy
1775 Wehrle Dr, ste 100
Williamsville, NY 14221

Trustee Michael Macco
2950 Express Drive South
Suite 109
Islandia, NY 11749

By depositing the papers described in the US Mail, affixed with first class postage, on
11/7/2018.

Signed,

Julie Dekom

11/7/2018